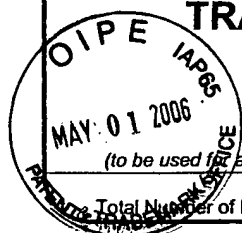


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Application Number	09/920,961
Filing Date	08/03/2001
First Named Inventor	Edwin Lyda
Art Unit	2611
Examiner Name	Tran, Hai V.
Attorney Docket Number	LYDA-01

**ENCLOSURES (Check all that apply)**

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| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br><input type="checkbox"/> Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input type="checkbox"/> Other Enclosure(s) (please identify below): |
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Remarks

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name

Annelin and Gaskin

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Mary J. Gaskin

Date

4/27/06

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**FEE TRANSMITTAL**  
For FY 2005☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 250.00

**Complete if Known**

Application Number	09/920,961
Filing Date	08/03/2001
First Named Inventor	Edwin Lyda
Examiner Name	Tran, Hai V.
Art Unit	2611
Attorney Docket No.	LYDA-01

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**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES****Fee Description**

	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
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- 20 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of total claims paid for, if greater than 20.

<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
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- 3 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<b>Total Sheets</b>	<b>Extra Sheets</b>	<b>Number of each additional 50 or fraction thereof</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
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- 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

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<b>Fees Paid (\$)</b>
250.00

**SUBMITTED BY**

Signature	Mary J. Gaskin	Registration No. (Attorney/Agent)	30,381	Telephone	281-363-9121
Name (Print/Type)	Mary J. Gaskin	Date	4/27/06		

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**THE UNITED STATES PATENT & TRADEMARK OFFICE**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

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In re: Application Serial No.: 09/920,961

Filing Date: 08/03/2001

First Named Inventor: Edwin Lyda

Group Art Unit: 2611

Examiner's Name: Tran, Hai V.

Attorney Docket No.: LYDA-01

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**APPELLANT EDWIN LYDA'S MAIN BRIEF**

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## **I. REAL PARTY IN INTEREST**

The real party in interest with respect to the present application is Edwin Lyda, an individual, who is the inventor of the invention disclosed in the application. The patent application has not been assigned or licensed.

## **II. RELATED APPEALS AND INTERFERENCES**

Presently, there are no other appeals or interferences known to appellant, the appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

## **III. STATUS OF CLAIMS**

Claims 1 through 7, 13 through 13, 17 through 21, and 23 through 25 stand rejected.

Claims 8 through 12, 16, and 22 have been cancelled.

Appellant is appealing the rejections of claims 1 through 7, 13 through 15, 17 through 21, and 23 through 25.

The text of claims 1 through 7, 13 through 15, 17 through 21, and 23 through 25 are set out in the Appendix.

## **IV. STATUS OF AMENDMENTS**

Appellant, hereinafter "applicant," has filed no amendment subsequent to the final rejection, which was mailed on February 8, 2006.

## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

The present invention relates to an apparatus and method that allows users to respond to any kind of program, without using a personal computer.

Independent claim 1 claims an electronic response device (p. 8, l. 2; Fig. 2, reference character 200; p. 4, l. 14; Fig. 4 reference character 410) other than a personal computer (p. 4, l. 3), the response device configured to allow a user to send data over a standard communication system (p. 4, l. 26; Fig. 4, reference character 430) in response to a program received apart from the response device (p. 3, ll. 12-18; Fig. 1, reference character 100), the response device comprising:

a user input mechanism for entry of user input and responses (p. 8, l. 2; Fig. 2, reference character 200; p. 4, l. 14; Fig. 4, reference character 410);

means for requiring the user's input of a program identifier code for the program received apart from the response device (p. 4, ll. 13-24; Fig. 1, reference character 130);

means for providing a user identifier code . . . (p. 4, ll. 19-21; Fig. 1, reference character 130);

a CPU for correlating the responses . . . (p. 7, ll. 13-21; Fig. 1, reference character 150); and

a transmitter . . . (p. 7, ll. 21-23; Fig. 1, reference character 160).

Independent claim 13 claims a method for receiving and processing responses to a program . . . comprising:

providing a program identifier code for the program (p. 4, ll. 21-24);

providing means for identifying an audience member (ll. 19-21);  
 providing a user input device other than a personal computer (p. 4, l. 14; Fig. 4, reference character 410; p. 8, l. 2; Fig. 2, reference character 200);  
 having the audience member input the program identifier code into the user input device (p. 4, ll. 13-24; Fig. 1, reference character 130);  
 having the audience member input responses into the user input device (p. 4, ll. 13-19; Fig. 1, reference character 130);  
 transmitting response data . . . (p. 4, ll. 25-27; Fig. 4, reference character 430);  
 collecting the response data at a central location (p. 6, ll. 20-26; Fig. 1, reference character 140).  
 correlating the program identifier code to the responses (p. 4, ll. 21-22; p. 6, ll. 21-26);  
 processing the response data (p. 7, ll. 13-21; Fig. 1, reference character 150).  
 Independent claim 20 claims a system for receiving and processing responses to a program . . . comprising:  
 providing a program identifier code for the program being presented (p. 4, ll. 21-24);  
 providing a user input device (p. 8, l. 2; Fig. 2, reference character 200; p. 4, l. 14; Fig. 4, reference character 410) other than a personal computer (p. 4, l. 3);  
 having an audience member input the program identifier code into the user input device (p. 4, ll. 13-24; Fig. 1, reference character 130);  
 having the audience member input responses into the user input device (p. 4, ll. 13-19; Fig. 1, reference character 130);

transmitting the program identifier code and the responses . . . (p. 4, ll. 25-27; Fig. 4, reference character 430);

collecting, correlating and processing the program identifier and the responses (p. 6, ll. 20-26; Fig. 1, reference character 140; p. 4, ll. 21-22, p. 7, ll. 13-21; Fig. 1, reference character 150);

routing the responses to a program presenter (p. 7, ll. 21-25; Fig. 1, reference character 160).

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

- A. Whether claims 1 through 3, 13 through 15, 17, 19 through 21, and 24 are unpatentable under 35 U.S.C. §102(b) as being anticipated by Ferris *et al.* (WO 99/04568).
- B. Whether claims 4, 5, 6, 18 and 24 are unpatentable under 35 U.S.C. §103(a) as being obvious over Ferris *et al.* (WO 99/04568).
- C. Whether claim 7 is unpatentable under 35 U.S.C. §103(a) as being unpatentable over Ferris *et al.* (WO 99/04568) in view of Yoshinoba *et al.* (U.S. 5,721,584).
- D. Whether claim 25 is unpatentable under 35 U.S.C. §103(a) as being unpatentable over Ferris *et al.* in view of Lewis *et al.* (U.S. 5,303,042).

## **VII. ARGUMENT**

- A. Rejection Under 35 U.S.C. §102(b) As Being Anticipated by Ferris *et al.*
  - 1. The Ferris Reference – Generally, for claims 1 through 3, 13 through 15, 17, 19 through 21, and 24



The Examiner erred when he rejected claims 1 through 3, 13 through 15, 17, 19 through 21, and 23 under 35 U.S.C. §102(b) as being anticipated by Ferris *et al.* (WO 99/04568).

The Ferris reference describes a remote control device for consumer broadcast receivers (see Abstract). It differs from a normal remote control by including a display. The reference specifies that “there is a need to have an outbound channel, holding the programme-associated data [PAD], which is broadcast to the user in parallel with the programme channel . . . .” (p. 3, ll. 26-27 – p. 4, l.1) The device receives PAD via a radio link, displays it to the user, and sends interaction data back to a central processing station.

As summarized by Ferris, the

“invention provides apparatus and method for providing simple, efficient and economic display of advertisements, product and service offers, and other information (collectively, ‘display data’) to the users of broadcast receivers, and is intended to have particular application where said display data is related to the programmes picked up by such receivers. The invention also provides apparatus and method for users, where applicable, to interact with said display data (for example, to order an offered product, or to request more information about an advertised good or service), and for the details of such interaction (collectively, ‘interaction data’) to be sent back to the sponsoring party for processing.” (Ferris, p. 6, ll. 14-22)

To operate, the Ferris device clearly requires the use of transmitted display data.

“Incoming display data is stored in memory within the said device until it becomes eligible for display. Generally, such data will be timed to become eligible for display at a point where the programme on the associated channel contains relevant content, (thereby satisfying condition 1) mentioned in the background section); in such a circumstance the display data may be termed programme associated data, or PAD, and the point in time of activation is known as the cue point. The list of PAD items and associated cue points, for each programme broadcast on a given channel (which can include infomercials and commercials, for our purposes) must be provided to a central PAD scheduler, either ahead of time, just in time, or some combination of both. The scheduler co-operates with a database system to hold this list, and, at the appropriate point (either ahead of or at the cue point), passes the

next due PAD item, including its cueing information, through to a radio transmission system, which it turn sends it to users' handsets, as rehearsed above." (Ferris, p. 7. ll. 5-17)

Further, Ferris requires the feed of data to be ongoing.

"Notice that such a device, if it is to be generally useful, must be able to receive PAD items in an ongoing feed. There are two main reasons for this. First of all, the fact that any reasonably-priced embodiment of such a device can have only a modest amount of onboard memory, places a limit on the number of PAD items that can be downloaded to it in any given batch mode transfer. Second, for certain events, such as televised live horse races, the outcome is not known in advance, and so neither, a fortiori, is the content of any event-related PAD. Such PAD cannot, therefore, be downloaded in advance of the event using a batch mode transfer.

These two factors, namely limited buffer memory in the device, and the dependence of certain PAD items on live events, means that the ongoing feed of PAD to the device must take place in 'real time' or close to 'real time'. 'Reel [sic] time' feed is required in the second scenario mentioned, where PAD content is contingent upon an event, the outcome of which is unknown until the time of broadcast. Once the event in question is determined (for example, a particular horse wins the race), the relevant PAD may be constructed and is then immediately due for presentation to interested users. Ideally, as little additional delay as possible is incurred from this point on; hence the term 'real-time'. Near 'real-time' feed is required in the first scenario, where PAD items transmitted to the user device must be relevant to a primary broadcast within the near future, if buffer overflow in the device is to be avoided." (Ferris, p. 4, ll. 27-28 – p. 5, ll. 1-19)

In all cases, the Ferris device must receive display data before a user may enter a selection related to the data displayed, and the display data the user views (an ad, a product offer, etc.) has been preselected and constructed by the broadcaster or "host." In all cases, the user is limited to "responding" to the data on the display; he cannot enter data he has constructed independently of the device.

The present invention, on the other hand, provides a device, method, and/or system which allows a user to provide responses to any type of programming, whether live or recorded, by using the device with a key pad to input his own data and then transmit the

data over a standard communication system, such as a two-way paging system to a central processing unit. The response system is not tied to any one type of programming over a particular medium. Obvious uses include responding to programs broadcast over television, radio, or streaming internet, but the invention can also be used with prerecorded media, such as audio tapes or video tapes, or even live events. The response system does not download data to which a user responds. Instead, the user of the system himself initiates the inputting of a program code (and possibly, the user code), and then enters his response to the program he has received apart from the device.

The present invention solves several problems disclosed in the Ferris reference. Unlike the Ferris device, the present invention is not required to have "on board" memory to hold the downloaded PAD data, nor does it have the associated problem of which pieces of PAD data to discard when new messages come in (Ferris, p. 18, ll. 15-25). Further, the present invention can be effectively used with a low-cost paging network; it does not seem to be feasible to use the Ferris device with a paging network because paging networks are very low speed data networks which would have a difficult time transmitting all the PAD data required by the Ferris device. Finally, the present invention does not ever require the sophisticated means for synchronizing the transmission of PAD data to the transmission from a primary broadcaster, such as Ferris describes in his alternate embodiment. Clearly, the present invention differs greatly from the Ferris device, and is not anticipated thereby.

## 2. Claim 1 and Claim 2

In rejecting claim 1, the Examiner cited Fig. 4, page 23 of Ferris as disclosing the claim language "in response to a program received apart from the response device," stating

that Ferris' "remote control device is used to respond to programming/'television programming shows,' i.e. tool show with option to buy a product received apart from the response device . . . ." However, this example does not involve a user's response to the show itself. In Ferris, the program is "'The Tool Show' – and as the presenter starts to demonstrate the use of good drilling technique 503, the handset 502 displays a programme-related offer 504 for the drill that the presenter is using. The PAD item corresponding to this offer will have been downloaded to the device from the relevant central processing station 420 (Figure 3) at some point previously, and cued up at the appropriate point for display . . . ." (Ferris, p. 23, ll. 5-10) Further, Ferris' "user input mechanism" is not used for entry of user-initiated responses. The example used by the Examiner (Fig. 2L, page 27, ll. 13-17) describes a device which "prompts" the user to enter a product/vendor identification code, which initiates a remote query to display product information. This is not a response to a program received apart from the device; instead it is simply input related to the display on the device. Nothing in Ferris suggests that a user can use the device to respond to anything other than PAD data displayed on the screen of the device.

The Examiner claimed to find the "means for requiring the user's input of a program identifier code for the program received apart from the response device" in Ferris' input controller 611, and again cited the examples shown in Fig. 2A and 2L (purchasing a tool or other product). However, unlike the present invention, neither of these examples describes requiring use of a program identifier code, which allows for proper processing and correlation of the data a user inputs. Instead, Ferris' user is simply entering

information to purchase products offered on the PAD display.

The Examiner then found that the central processing unit of the present invention reads on Ferris's microprocessor 607. However, the Examiner's discussion displays the fallacy of his argument: he states that:

"by responding to the 'product/vendor code' input through the handheld device on the basis of the information inputted by the user, the inputted 'product/vendor code' is transmitted back to the central control station along with HUUID (page 13, 3<sup>rd</sup> paragraph). In doing so, the inputted 'product/vendor code' constitutes an input from the user of a program identifier code (PADUID) for the particular programming event (display PAD) in which the user is responding along with the user identifier code associated with the remote device (HUUID); see page 13, 3<sup>rd</sup> paragraph)"

He stated that the "product/vendor code" constitutes the input of a program identifier code, and the user identifier code is the HUUID. Nowhere did he find that Ferris' microprocessor can correlate responses the user has entered into the device to the program identifier code, or that responses are processed by the microprocessor. Perhaps that is because there are no such examples in Ferris. Clearly, claims 1 and 2 are not anticipated by Ferris.

3. Claim 3

Claim 3, which is dependent upon claim 1, should be allowable as well. Further, the Examiner has not argued that Ferris anywhere discloses the following:

"the transmitter is configured to send data bursts over standard telephone line; and  
the communication system comprises a plain old telephone system."

Claim 3 should be allowable over Ferris.

4. Claims 13, 14 and 17

The Examiner indicated that claim 13 was analyzed with respect to apparatus claim 1. Applicant's arguments related to claim 1, *supra*, are similarly relevant when reviewing

claim 13. The Examiner ignored the fact that Ferris nowhere discloses having an audience member input the program identifier code. Further, the Examiner apparently lumps together “collecting the response data . . .,” correlating the program identifier code to the responses, and processing the response data, referring generally to page 15, 1<sup>st</sup> paragraph; page 24, 1<sup>st</sup> through 3<sup>rd</sup> paragraphs. However, the material on page 15, 1<sup>st</sup> paragraph has no relevance at all to the rejection. Further, the latter reference to page 24 shows general uses of Ferris’ device, but fails to disclose the step of correlating the program identifier code (entered by the audience member) to the audience member’s responses. In the examples cited, Ferris discloses an audience member “responding” to the PAD data shown on his device. Because “responses” are always to PAD on the display, any response entered by an audience member which is not related to the PAD cannot be processed! Claims 13, 14 and 17 are not anticipated by Ferris.

5. Claim 15

Claim 15, which is dependent upon claim 13, should be allowable as well. Further, Ferris does not disclose the claim element “having the presenter of the program respond to the audience member.” The Examiner refers to page 9, 4<sup>th</sup> paragraph, as disclosing the element. However, the paragraph has nothing to do with having the presenter respond to the audience member. The word “interactive” as used in Ferris has nothing to do with having a presenter interact with a viewer. Instead, Ferris describes a user “interacting” with the display data by operating controls on the device (Ferris, p. 8, ll. 6-7). Claim 15 is not anticipated and should be allowable over Ferris.

6. Claim 19

Claim 19, which is dependent upon claim 13, should be allowable as well. Further, Ferris nowhere discloses “having the audience member log in to a remote computer system before inputting response data into the user input device.” The Examiner refers to page 8, 3<sup>rd</sup> paragraph, and page 26, 2<sup>nd</sup> paragraph as disclosing the step. However, page 8, 3<sup>rd</sup> paragraph describes “logging the interaction in a user database,” not having a user log in; page 26, 2<sup>nd</sup> paragraph deals with something else entirely. Claim 19 is not anticipated and should be allowable over Ferris.

7. Claim 20 and Claim 23

In rejecting claim 20, the Examiner found the step of “providing a program identifier code for the program being presented” as being Ferris’ PADUID of the initial display data. However, Ferris’ PADUID is defined at page 7, 4<sup>th</sup> paragraph, as a “unique identifier” that is part of a “PAD software object” which is sent from the central broadcasting station to the device. As a result, Ferris clearly does not disclose the step of “[H]aving an audience member input the program identifier code into the user input device.” The Examiner sets forth a tortured argument that, since the selected PAD is transmitted back to the central control station along with the PADUID, that somehow the process “constitutes an input from the user of the program identifier code (PADUID) for the particular programming event (displays PAD) . . .” His argument is false; if anything, it shows that Ferris’ PAD data is inextricably tied to its identifier (PADUID), and that Ferris provides no means by which a user can input a program identifier code for a program received apart from the device. Further, nothing in Ferris describes the step of correlating the program identifier and the

responses. Claims 20 and 23 are clearly not anticipated by Ferris.

8. Claim 21

Claim 21, which is dependent upon claim 20, should be allowable as well. Further, Ferris does not disclose the claim element “having the presenter of that program respond to the audience member.” The Examiner refers to page 9, 4<sup>th</sup> paragraph, as disclosing the element. However, the paragraph has nothing to do with having the presenter respond to the audience member. The word “interactive” as used in Ferris has nothing to do with having a presenter interact with a viewer. Instead, Ferris describes a user “interacting” with the display data by operating controls on the device (Ferris, p. 8, ll. 6-7). Claim 21 is not anticipated and should be allowable over Ferris.

B. Rejection Under 35 U.S.C. §103(a) As Being Obvious Over Ferris et al. (WO 99/04568)

1. Claims 4, 5 and 6

In rejecting these claims, the Examiner agreed that Ferris does not disclose the fact that the transmitter is configured to call telephone numbers of each of the telephone numbers having been associated with a particular response to the program; nor that the communication system is a plain old telephone system. However, he took Official Notice “that having a remote control with integrated modem with associated call number for communications purpose using a plain old telephone number is notoriously well known in the art.” However, the use of a modem with an associated call number has nothing to do with either the present invention or with Ferris. The modem the Examiner refers to does not call one of several telephone numbers, each having been associated with a particular



response to the program, as described in the present invention. Further, Ferris does not contain any suggestion that it could be configured to have a modem call one of several telephone numbers. In the absence of such a suggestion, the proposed modification is not likely. Therefore, the Examiner's taking an Official Notice of the use of modems is not only irrelevant to the present invention, it is also not persuasive.

The same argument can be made for the Examiner's treatment of claim 5 and claim 6. Nothing in Ferris teaches or suggests use of its device with an internet protocol system, and, therefore, his rejection on the basis of Official Notice should be set aside. Further, claims 4 and 5, which are dependent on claim 1, and claim 6, which is dependent on claim 5, should be allowable as depending from allowable claim 1.

2. Claim 18

The Examiner analyzed claim 18 with respect to claim 4. Therefore the argument in the preceding Section B.1 is equally applicable, and applicant will not repeat it here. Further, claim 18, which is dependent upon claim 13, should be allowable as depending from allowable claim 13.

3. Claim 24

The Examiner analyzed claim 24 with respect to claim 4. Therefore the argument in the preceding Section B.1 is equally applicable, and applicant will not repeat it here. Further, claim 24, which is dependent upon claim 20, should be allowable as depending from allowable claim 20.

C. Rejection Under 35 U.S.C. §103(a) As Being Unpatentable Over Ferris et al (WO 99/04568 In View Of Yoshinoba et al (U.S. 5,721,584)

1. Claim 7

Claim 7, which is dependent upon claim 1, should be allowable as depending from allowable claim 1.

D. Rejection Under 35 U.S.C. §103(a) As Unpatentable Over Ferris et al In View Of Lewis et al (U.S. 5,303,042)

1. Claim 25

The Examiner has argued that, while Ferris does not clearly describe having the audience member log into a remote computer system before inputting data into the device, Ferris does describe having users log on the keypad device (at page 25, 3<sup>rd</sup> and 4<sup>th</sup> paragraphs). Once again, applicant is at a loss to understand the analogy. The paragraphs he cites in Ferris merely describe how the user “unlocks” the device with a PIN, which can be preset for multiple users. This does not contain a suggestion that a user logs into a remote computer system before inputting responses. The Examiner’s proposed modification of using Lewis “so that the remote computer able to track all viewer currently log on the system” would change the principle of operation of Ferris (Ferris is, after all, a remote control device) . Claim 25 should be allowable over the references cited.

E. Conclusion

The Examiner’s rejection of applicant’s claimed invention should not be maintained. Throughout the prosecution, applicant has amended the claims several times to more clearly define the subject matter of his invention. After applicant successfully overcame the

Guy reference (U.S. 5,833,468), the Examiner has continued to cite the Ferris reference, which discloses a device that does not anticipate or make obvious the present invention.

Applicant's invention is highly novel, useful, and nonobvious. It provides a device and system that can be used anywhere to respond to any type of programming without the use of a computer or other expensive equipment, and without the need for an internet connection. The user can input original thoughts, questions, and answers. After responses are received and processed, they can be sent to the presenter of the program, who can incorporate them into an ongoing presentation (such as a lecturer teaching a lesson to students over closed-circuit television).

The Examiner's reliance on the Ferris reference is flawed. All the claim elements of the present invention are not found in Ferris, which discloses a device concerned only with having a user "respond" to PAD broadcast to a display on his remote control.

For the foregoing reasons, applicant submits that the Examiner's rejection of claims 1 through 7, 13 through 15, 17 through 21, and 23 through 25 is in error and that it should be reversed. Applicant hereby requests that the Board withdraw the Examiner's rejection and allow claims 1 through 7, 13 through 15, 17 through 21, and 23 through 25

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Date

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## **VIII. APPENDIX**

### **CLAIMS**

1. An electronic response device other than a personal computer, the response device configured to allow a user to send data over a standard communication system in response to a program received apart from the response device, the response device comprising:

a user input mechanism for entry of user input and responses;

means for requiring the user's input of a program identifier code for the program received apart from the response device;

means for providing a user identifier code, the means selected from the group consisting of having the user identifier code associated with the response device and having the user input the user identifier code;

a central processing unit (CPU) for correlating the responses the user has entered into the user input mechanism to the program identifier code and for processing the program identifier code, the user identifier code, and responses the user has entered into the user input mechanism;

a power source; and

a transmitter connected to the CPU.

2. The electronic response device according to claim 1, wherein:

the input mechanism is selected from the group consisting of a key pad and voice recognition apparatus;

the transmitter comprises a two-way paging device; and

the communication system comprises a two-way paging system.

3. The electronic response device according to claim 1, wherein:

the input mechanism is selected from the group consisting of a key pad and  
voice recognition apparatus;

the transmitter is configured to send data bursts over standard telephone  
lines; and

the communication system comprises a plain old telephone system.

4. The electronic response device according to claim 1 wherein:

the input mechanism is selected from the group consisting of a key pad and  
voice recognition apparatus;

the transmitter is configured to call telephone numbers each of the telephone  
numbers having been associated with a particular response to the  
program; and

the communication system comprises a plain old telephone system.

5. The electronic response device according to claim 1, wherein:

the input mechanism is selected from the group consisting of a key pad and  
voice recognition apparatus;

the transmitter comprises a wireless internet protocol device; and

the communication system comprises an internet protocol system.

6. The electronic response device according to claim 5, wherein:

the internet protocol system further communicates with a telecommunication  
system.

7. The electronic response device according to claim 1, further comprising:
- an indicator for indicating the connection status of the electronic response device to the communication system.

8 - 12. (Cancelled)

13. A method for receiving and processing responses to a program selected from the group consisting of a radio broadcast, a television broadcast, an internet broadcast, a satellite communication, an audio tape, a video tape, and a live performance, the method comprising:

- providing a program identifier code for the program;
- providing means for identifying an audience member;
- providing a user input device other than a personal computer;
- having the audience member input the program identifier code into the user input device;
- having the audience member input responses into the user input device;
- transmitting response data comprising the program identifier code, the means for identifying an audience member, and the responses over a standard communication system;
- collecting the response data at a central location;
- correlating the program identifier code to the responses;
- processing the response data.

14. The method of claim 13 which further includes:

- sending the processed data to a presenter of the program for viewing.

15. The method of claim 14 which further includes:

having the presenter of the program respond to the audience member.

16. (Cancelled)

17. The method of claim 13 wherein the standard communication system is selected from the group consisting of a two-way paging network, a one-way paging network, and an internet protocol network.

18. The method of claim 13 wherein the standard communication system utilizes telephone lines and equipment and the response data is transmitted by having the user input device call a pre-assigned telephone number associated with the input response data.

19. The method of claim 13 which further includes having the audience member log in to a remote computer system before inputting response data into the user input device.

20. A system for receiving and processing responses to a program selected from the group consisting of a radio broadcast, a television broadcast, an internet broadcast, a satellite communication, an audio tape, a video tape, and a live performance, the system comprising:

providing a program identifier code for the program being presented;

providing a user input device other than a personal computer;

having an audience member input the program identifier code into the user input device;

having the audience member input responses into the user input device;

transmitting the program identifier code and the responses associated with

a user identifier over a standard communication system;

collecting, correlating, and processing the program identifier and the responses;

routing the responses to a program presenter.

21. The system of claim 20 which further includes:

having the presenter respond to the audience member.

22. (Cancelled)

23. The system of claim 20 wherein the standard communication system is selected from the group consisting of a two-way paging network, a one-way paging network, and an internet protocol network.

24. The system of claim 20 wherein the standard communication system utilizes telephone lines and equipment and the responses are transmitted by having the user input device call a pre-assigned telephone number associated with the input responses.

25. The system of claim 20 which further includes having the audience member log in to a remote computer system before inputting the program identifier code and the responses into the user input device.



## **IX. EVIDENCE APPENDIX**

None.

## **X. RELATED PROCEEDINGS APPENDIX**

None.